

MINUTES

COURT OF APPEAL
STATE OF CALIFORNIA
FIRST APPELLATE DISTRICT

Monday, January 4, 1999

DIVISION TWO

A074965/A075279 -- Johnette Marie Adams et al. v. City of Fremont et al.

Order Modifying Opinion and Denying Rehearing; The Court: It is ordered that the opinion filed herein on December 3, 1998, be modified in the following particulars: (See Order.)

Respondents' petition for rehearing is denied. (Kline, P.J. would grant the petition.) Ruvolo, J. I concur: Haerle, J. (Certified for Publication.)

A079475 -- The People v. Jonathan Victor Ruiz.

The judgment is reversed. Haerle, J. We concur: Kline, P.J., Ruvolo, J. (Not for Publication.)

MINUTES

COURT OF APPEAL
STATE OF CALIFORNIA
FIRST APPELLATE DISTRICT

Tuesday, January 5, 1999

DIVISION ONE

**A084054 -- The People v. The Superior Court of Contra Costa County v.
Barry Whitley, R.P.I.**

We conclude that the trial court erred when it granted Whitley's motion to dismiss the petition for commitment under the Act. Therefore, let a peremptory writ of mandate issue commanding that court to set aside its order dismissing the petition and to proceed instead with a probable cause hearing under Welfare and Institutions Code section 6602. Whitley is to remain in custody in a secure facility pending that hearing. Strankman, P.J. We concur: Stein, J., Swager, J. (Certified for Publication.)

DIVISION THREE

**A066990 -- Conservatorship of the Estate of Rita T. Schoenborn.
Peter A. Schoenborn, as Temporary Conservator v. Rita T.
Schoenborn.**

The trial court's order approving the account of the temporary conservator is affirmed. Corrigan, Acting P.J. We concur: Parrilli, J. Walker, J. (Not for Publication.)

Tuesday, January 5, 1999 (continued)

A081880 -- The People v. Robert H. Cole.

We have reviewed the entire record in this appeal and conclude there are no arguably meritorious issues to be argued. We do note, however, that the written order amending the abstract of judgment mistakenly refers to the "PC 667.5 (b) enhancements." The reference to "PC 667.5(b) enhancements" is amended to read "PC 667, subdivision (a) enhancements." In all other respects, the judgment (Order Amending Abstract of Judgment) is affirmed. Parrilli, J. We concur: Corrigan, Actg. P.J., Walker, J. (Not for Publication.)

A082382 -- The People v. Martin Perry Dennis.

The judgment is affirmed. Parrilli, J. We concur: McGuiness, P.J., Walker, J. (Not for Publication.)

A083476 -- In re John H., Jr., a Person Coming Under the Juvenile Court Law.

The petition for extraordinary writ is denied on the merits. (See Cal. Const., art. VI, § 14; *Kowis v. Howard* (1992) 3 Cal.4th 888,894; *Bay Development, Ltd. v. Superior Court* (1990) 50 Cal.3d 1012, 1024.)

The section 366.26 hearing is set for February 5, 1999. Therefore, our decision is final in this court immediately. Corrigan, Acting P.J. We concur: Parrilli, J., Walker, J. (Not for Publication.)

DIVISION FIVE

A081189 -- Suzan Snider v. Esse Pink, Inc., et al.

The award of prejudgment interest is reversed and remanded with directions to award prejudgment interest at the rate of 10 percent. The judgment is otherwise affirmed. Haning, J. We concur: Jones, P.J., Stevens, J. (Not for Publication.)

MINUTES

COURT OF APPEAL
STATE OF CALIFORNIA
FIRST APPELLATE DISTRICT

Wednesday, January 6, 1999

DIVISION ONE

A080458 -- Adoption of Daniel E., a Minor.

The order terminating appellant's parental rights and freeing the child for adoption is affirmed. Respondents are awarded their costs on appeal. Stein, J. We concur: Strankman, J., Swager, J. (Not for Publication.)

DIVISION FOUR

A078340 -- City of Atascadero et al. v Merrill Lynch. Pierce, Fenner & Smith, Inc., et al.

The Court: It is ordered that the opinion filed herein on December 7, 1998, be modified in the following particulars: (See Order.)

There is no change in the judgment.

Respondents' joint petition for rehearing is denied. Hanlon, P.J. (Certified for Publication.)

MINUTES

COURT OF APPEAL
STATE OF CALIFORNIA
FIRST APPELLATE DISTRICT

Thursday, January 7, 1999

DIVISION ONE

A080811 -- Cushman & Wakefield of California, Inc. v. Kemper Real Estate Management Company.

The judgment against appellant on the breach of contract cause of action is reversed. The balance of the judgment is affirmed. Appellant is entitled to costs on appeal. Marchiano, J. We concur: Strankman, P.J., Stein, J. (Not for Publication.)

DIVISION THREE

A079984 -- Parkwood Montclair Partners v. Athan Magganas.

By The Court: The petition for rehearing is denied. McGuinness, P.J.

A080957 -- The People v. Mark James Taylor.

The judgment is affirmed. Parrilli, J. We concur: Phelan, P.J.*, Corrigan, J.

*Retired Presiding Justice of the Court of Appeal, First District, assigned by the Chief Justice pursuant to article VI, section 6 of the California Constitution. (Not for Publication.)

Thursday, January 7, 1999 (continued)

DIVISION FOUR

A075326 -- Susan Rose Cleary v. John Leonard, M.D.

The judgment is affirmed. Appellant to bear costs of appeal. McGuiness, J.* We concur: Hanlon, P.J., Poché, J.

*Presiding Justice of the Court of Appeal, First Appellate District, Division Three, assigned by the Chief Justice pursuant to article VI, section 6 of the California Constitution. (Not for Publication.)

A075385 -- Kenneth Valentine, Individually and as Successor in Interest, etc. v. Baxter Healthcare Corporation et al.

We affirm the judgment. Reardon, J. We concur: Hanlon, P.J., McGuiness, J.*

*Presiding Justice of the Court of Appeal, First Appellate District, Division Three, assigned by the Chief Justice pursuant to article VI, section 6 of the California Constitution. (Certified for Partial Publication.)

A084802 -- Cheryl B. v. The Superior Court of Alameda County, Alameda County Social Services Agency, R.P.I.

A084803 -- Stephen W. v. The Superior Court of Alameda County, Alameda County Social Services Agency, R.P.I.

The petitions are denied on the merits. (Cal. Const., art. VI, § 14; *Kowis v. Howard* (1992) 3 Cal.4th 888 [subsequent challenge by appeal barred]; § 366.26, sub. (1)(1).) The requests for stay are denied as moot. Given the nearness of the section 366.26 hearing set for February 5, 1999, our decision is final as to this court immediately. (Cal. Rules of Court, rule 24(d).) Reardon, J. We concur: Hanlon, P.J., Sepulveda, J. (Not for Publication.)

Thursday, January 7, 1999 (continued)

DIVISION FIVE

A080164

A081118 -- Raja N. Samara et al. v. Marlin Cove, Inc., et al.

The judgment and the attorney fee award are affirmed. Haning, J. We concur: Jones, P.J., Stevens, J. (Not for Publication.)

A080787 -- Jeff Harvey et al. v. Walter L. Davis.

The judgment is affirmed. Haning, J. We concur: Jones, P.J., Stevens, J. (Not for Publication.)

A080917 -- Stuart Fong v. City of Millbrae.

The judgment is reversed. The parties to bear their own costs on appeal. Jones, P.J. We concur: Haning, J., Stevens, J. (Not for Publication.)

A081526 -- Henry M. Hong et al. v. First Alliance Mortgage Company et al.

We reverse the trial court's denial of the petition to compel arbitration. Having found the Agreement unconscionable, the trial court made no finding on the Hongs' allegations of fraud. We therefore remand to the trial court for resolution of those allegations. The parties to bear their own costs on appeal. Jones, P.J. We concur: Haning, J., Stevens, J. (Not for Publication.)

A082508 -- David R. Holbrooke v. Franchise Tax Board.

The judgment of the trial court is affirmed. Stevens, J. We concur: Jones, P.J., Haning, J. (Not for Publication.)

MINUTES

COURT OF APPEAL
STATE OF CALIFORNIA
FIRST APPELLATE DISTRICT

Friday, January 8, 1999

DIVISION THREE

A075506 -- F.W. Woolworth Company, et al. v. Franchise Tax Board.

By The Court: The petition for rehearing is denied. McGuiness, P.J.

A081428 -- Robert Holmes v. District Attorney for the City and County of San Francisco.

Order Granting Request for Partial Publication; By the Court: It is ordered that the opinion filed December 16, 1998, is published pursuant to California Rules of Court, rules 976(b) and 976.1, with the exception of part II. McGuiness, P.J. (Certified for Partial Publication.)

A082635 -- The People v. Mike Paul Manross.

We have reviewed the entire record on appeal and have found no arguable meritorious issues. Consequently, the judgment is affirmed. Parrilli, J. We concur: Phelan, P.J.*, Corrigan, J.

*Retired Presiding Justice of the Court of Appeal, First District, assigned by the Chief Justice pursuant to article VI, section 6 of the California Constitution. (Not for Publication.)

A083465 -- In re Joseph A. Cantaroni, Jr., on Habeas Corpus.

Petition for writ of habeas corpus is granted in part. The Mendocino County Superior Court is directed to amend Mr. Cantaroni's abstract of judgment to add 32 days' credit and to forward a copy of the amended abstract to the Department of Corrections. In all other respects, the petition for writ of habeas corpus is denied. Walker, J. We concur: McGuiness, P.J., Parrilli, J. (Not for Publication.)

Friday, January 8, 1999 (continued)

DIVISION FIVE

A081526 -- Henry M. Hong et al. v. First Alliance Mortgage Company et al.

By The Court: It is ordered that the opinion filed herein on January 7, 1999, be modified as follows: (See Order.)

This modification does not effect a change in the judgment. Stevens, Acting P.J., (Not for Publication.)

A084650

A084651 -- Darlene H., Santiago R. v. Superior Court of Mendocino County, Mendocino County Department of Social Services, R.P.I.

We order the petitions consolidated.

The petitions for extraordinary writ are denied on the merits. (See Cal. Const., art. VI, § 14; *Kowis v. Howard* (1992) 3 Cal.4th 888, 894; *Bay Development, Ltd. v. Superior Court* (1990) 50 Cal.3d 1012, 1024.) Because the section 366.26 hearing is set for February 4, 1999, our decision is final in this court immediately. (Cal Rules of Court, rule 24(d).) Stevens, J. We concur: Jones, P.J., Haning, J. (Not for Publication.)

MINUTES

COURT OF APPEAL
STATE OF CALIFORNIA
FIRST APPELLATE DISTRICT

Monday, January 11, 1999

DIVISION ONE

A081895 -- The People v. Christopher Thomas Strei.

The judgment is affirmed. Strankman, P.J. We concur: Swager, J., Marchiano, J.
(Not for Publication.)

A082563 -- Poland Pitre, Sr. v. Scott Company of California et al.

The summary judgments are affirmed. Each side shall bear its own costs.
Marchiano, J. We concur: Strankman, P.J., Swager, J. (Not for Publication.)

DIVISION TWO

A076930 -- Robert Scheiding et al. v. Dinwiddie Construction Co.

The judgment is reversed. Lambden, J. We concur: Kline, P.J., Ruvolo, J.
(Certified for Publication.)

**A085361 -- Samuel Lee Johnson v. The Superior Court of Alameda County,
The People of the State of California, R.P.I.**

By The Court: The petition for writ of mandate/prohibition/stay is denied.
Lambden, Acting P.J.

Monday, January 11, 1999 (continued)

A085369 -- George William Wolff v. The Superior Court of San Francisco County, James F. Wisner, et al., R.P.I.

By The Court: The petition for writ of mandate/prohibition is denied. Lambden, Acting P.J.

DIVISION THREE

A080334 -- The People v. Linda Faye Lawson.

The judgment is affirmed. Parrilli, J. We concur: Phelan, P.J.*, Corrigan, J.

*Retired Presiding Justice of the Court of Appeal, First District, assigned by the Chief Justice pursuant to article VI, section 6 of the California Constitution. (Certified for Publication.)

DIVISION FOUR

A078208, A079486 -- Mervyn's v. Angelina Reyes, Hayward City Clerk, etc. et al., Sherman L. Lewis III, R.P.I.

Order Granting Partial Publication; By The Court: Real party in interest and respondent's request to publish portions of this court's December 10, 1998, opinion is granted. It is ordered that sections I, II, and the disposition are hereby published in the Official Reports. Hanlon, P.J.

Monday, January 11, 1999 (continued)

DIVISION FIVE

A079099 -- Julio Gutierrez et al. v. Emilio Porta.

The order confirming the arbitrator's award is affirmed. Haning, J. We concur: Jones, P.J., Stevens, J. (Not for Publication.)

A081625 -- In re Erika E., a Person Coming Under the Juvenile Court Law.

A084536 -- In re Erika E., on Habeas Corpus.

The order terminating parental rights is affirmed. Appellant's petition for writ of habeas corpus is denied. Jones, P.J. We concur: Haning, J., Stevens, J. (Not for Publication.)

A081864 -- The People v. Jose Luis Gonzalez.

The judgment is affirmed. Jones, P.J. We concur: Haning, J., Stevens, J. (Not for Publication.)

A081937 -- The People v. Donald Eugene Harvey.

The judgment is affirmed. Jones, P.J. We concur: Haning, J., Stevens, J. (Not for Publication.)

A082883 -- The People v. Paul Robinson.

The order revoking probation is affirmed. Jones, P.J. We concur: Haning, J., Stevens, J. (Not for Publication.)

MINUTES

CALIFORNIA COURT OF APPEAL
FIRST APPELLATE DISTRICT
DIVISION ONE

Monday, January 11, 1999

The Court convened at 9:00 a.m. in its courtroom at 303 - 2nd Street, Fourth Floor, San Francisco. Present: Strankman, P.J., , Swager, J., Marchiano, J., and N. Millner, Deputy Clerk.

- A081239 General Motors Corporation,
A081246 v.
A081253 City and County of San Francisco.
Causes called and argued by Charles Ajalat, counsel for appellant, and Claude Kolm, counsel for respondent. Causes ordered submitted.
- A080206 The People,
v.
Jimmy Lee Smith, Jr., et al.
Cause called and argued by Stewart Pollack, counsel for appellant Smith, and Jill M. Thayer, Deputy Attorney General, counsel for respondent. Counsel for appellant Johnson waived argument. Cause ordered submitted.
- A079962 Homeowners Association of Seaview Community,
v.
The Housing Group, et al.;
Design Professional Insurance Co.
Cause called and argued by Max H. Stern, counsel for appellant, and Eugene Stuart, counsel for respondent Housing Group, and Mitchell Chyette, counsel for respondent Brewster. Cause ordered submitted.

At this point in the proceedings, Presiding Justice Strankman left the bench and Justice Stein joined the bench and became Acting Presiding Justice.

A081889 The People,
 v.
 Carl Allen Neighorn.
Cause called and argued by Randi Covin, counsel for appellant, and
Christopher Grove, Deputy Attorney General, counsel for respondent.
Cause ordered submitted.

A080576 The People,
 v.
 Serge Rigo.
Cause called and argued by J. David Nick, counsel for appellant, and Gregg
E. Zywicke, Deputy Attorney General, counsel for respondent. Cause
ordered submitted.

Court recessed until 2 p.m.

MINUTES

CALIFORNIA COURT OF APPEAL
FIRST APPELLATE DISTRICT
DIVISION ONE

Monday, January 11, 1999

The Court convened at 2:00 p.m. in its courtroom at 303 - 2nd Street, Fourth Floor, San Francisco. Present: Strankman, P.J., Stein, J., Swager, J. and B. Robbins, Deputy Clerk.

A081219 Huppert & Hurabiell,
 v.
 Daniel Ray Bacon.
Cause called and argued by Frederick Watson, counsel for appellant, and Jerry Hauser, counsel for respondent. Cause ordered submitted.

At this point in the proceedings, Presiding Justice Strankman announced that Justice Marchiano was unavailable to return to the bench for the next case. Justice Swager remained on the bench, but did not participate in the next case.

A080307 Melissa Mensch,
 v.
 George Rogers, et al.
Cause called. Patricia Bourke, counsel for appellant, waived the presence of Justice Marchiano, and argued the case. Matthew Haley, counsel for respondent, did not appear and telephonically advised the court that he would submit on the briefs. Cause ordered submitted.

At this point in the proceedings, Justice Swager resumed participation in the remainder of the calendar.

A082680 In re Marriage of Johnson.
 Autumn N. Dettmer,
 v.
 Ja'Harvey Dillard Johnson.
Cause called and argued by Ja'Harvey Johnson, appellant in pro per, and Jerome Blaha, counsel for respondent. Cause ordered submitted.

A070024 The People,
A073277 v.
 Bernard Leroy MacCarlie, et al.;

The People,
v.
Anthony Lang Lockley, et al.
Cause called and argued by Neil Rosenbaum, counsel for appellant Adcock;
Victor Morse, counsel for appellant Bond; Neoma Kenwood, counsel for
appellant Lockley; Michael Satris, counsel for appellant MacCarlie; and
Herbert F. Wilkinson, Deputy Attorney General, counsel for respondent.
Cause ordered submitted.

Court adjourned.

MINUTES

COURT OF APPEAL
STATE OF CALIFORNIA
FIRST APPELLATE DISTRICT

Tuesday, January 12, 1999

DIVISION TWO

A075128 -- Muriel Bell et al. v. First American Title Insurance Company.

The trial court's postjudgment order denying appellants' motion to enforce the settlement agreement against FATCO is affirmed. Ruvolo, J. We concur: Haerle, Acting P.J., Lambden, J. (Not for Publication.)

A075867 -- Daniel J. Oborn et al. v. California Reconveyance Company et al.

The trial court's August 23, 1996 order denying the motion for disqualification of counsel is affirmed. Ruvolo, J. We concur: Haerle, Acting P.J., Lambden, J. (Not for Publication.)

A080453 -- The People v. National Automobile and Casualty Insurance Company.

The judgment is affirmed. Haerle, J. We concur: Kline, P.J., Lambden, J. (Not for Publication.)

A080788 -- The People v. Jewel Harrison.

The judgment is affirmed. Haerle, J. We concur: Kline, P.J., Ruvolo, J. (Not for Publication.)

A082058 -- Daniel V. Nguyen v. Proton Technology Corporation, et al.

The judgment is reversed. Costs on appeal are awarded to appellant. Haerle, J. We concur: Kline, P.J., Ruvolo, J. (Certified for Publication.)

Tuesday, January 12, 1999 (continued)

A085396 -- In re Terry D. Cranford, on Habeas Corpus.

By The Court: The petition for writ of habeas corpus is denied. Haerle, Acting P.J.

A085406 -- In re Richard Cross, on Habeas Corpus.

By The Court: The petition for writ of habeas corpus is denied. Haerle, Acting P.J.

A085407 -- In re Anthony Owens, on Habeas Corpus.

By The Court: The petition for writ of habeas corpus is denied. Petitioner must first exhaust administrative remedies and then seek relief, if any, in the trial court. Haerle, Acting P.J.

A085415 -- Michael Mosley v. The Superior Court of Alameda County, The People of the State of California, R.P.I.

By The Court: The petition for writ of mandate/prohibition/stay is denied. Haerle, Acting P.J.

DIVISION THREE

A081222 & A081443 -- In re the Marriage of Jane Bernard Powers and Thomas Shelton Powers.

The orders are affirmed. Husband shall recover his costs on appeal. Parrilli, J. We concur: Phelan, P.J.*, Walker, J.

*Retired Presiding Justice of the Court of Appeal, First District, assigned by the Chief Justice pursuant to article VI, section 6 of the California Constitution. (Not for Publication.)

Tuesday, January 12, 1999 (continued)

DIVISION FOUR

A081383 -- The People v. Coreen Kay Sanchez.

The People v. Jimmy Dale Severe.

The judgment in appellant Severe's case is ordered modified to reflect an award of 138 days of conduct credits, and the abstracts of judgment in both cases are ordered modified to reflect the fact the enhancements for being personally armed with a firearm are imposed pursuant to Penal Code section 12022, subdivision (c). The judgments in both cases are remanded for modification and correction as ordered. In all other respects, the judgments are affirmed. McGuiness, J.* We concur: Hanlon, P.J., Poché, J.

*Presiding Justice of the Court of Appeal, First Appellate District, Division Three, assigned by the Chief Justice pursuant to article VI, section 6 of the California Constitution. (Not for Publication.)

DIVISION FIVE

A081928 -- National Enterprises Incorporated v. Steven Kay.

The judgment is affirmed. Stevens, J. We concur: Jones, P.J., Haning, J. (Not for Publication.)

MINUTES

COURT OF APPEAL
STATE OF CALIFORNIA
FIRST APPELLATE DISTRICT

Wednesday, January 13, 1999

DIVISION ONE

A078335 -- Henry Grausz et al. v. Evans, Farber & Cipinko et al.

The judgment dismissing the fourth cause of action is reversed and the case is remanded for reconsideration of damages on the third cause of action pursuant to this opinion. In all other respects the judgment is affirmed.

Each party is to bear its own costs on appeal. Swager, J. We concur: Strankman, P.J., Stein, J. (Not for Publication.)

A079625 -- Henry Grausz et al. v. H. Lee Evans.

The order denying the motion to vacate the writ of execution filed June 2, 1997, is reversed.

The order denying the motion for reconsideration and imposing sanctions is affirmed.

Costs are awarded to appellant. Swager, J. We concur: Strankman, P.J., Stein, J. (Not for Publication.)

A081150 -- The People v. Jack Edwin Rudy.

The order is affirmed. Stein, J. We concur: Strankman, P.J., Marchiano, J. (Not for Publication.)

A082680 -- In re the Marriage of Autumn N. Dettmer and Ja'Harvey Dillard Johnson.

The order is affirmed. Stein, J. We concur: Strankman, P.J., Swager, J. (Not for Publication.)

Wednesday, January 13, 1999 (continued)

DIVISION TWO

A081888 -- The People v. Russell D. Lewis.

There are no meritorious issues to be argued. Kline, P.J. We concur: Haerle, J., Ruvolo, J. (Not for Publication.)

A081925 -- In re Daniel Allen N., a Person Coming Under the Juvenile Court Law.

The judgment of the trial court is affirmed. Ruvolo, J. We concur: Haerle, Acting P.J., Lambden, J. (Not for Publication.)

A084829 -- In re Terri L., a Person Coming Under the Juvenile Court Law.

The petition for extraordinary writ is denied on the merits. (See Cal. Const., art. VI, § 14; *Kowis v. Howard* (1992) 3 Cal.4th 888; § 366.26, subd. (1) [precluding further challenge to these orders by petitioner in any subsequent appeal].) Since the permanency planning hearing is presently set for February 8, 1998, our decision is final as to this court immediately. (Rule 24(d).) Haerle, Acting P.J. We concur: Lambden, J., Ruvolo, J. (Not for Publication.)

A085360 -- Standard Register Company, et al. v. The Superior Court of Solano County, James C. Clarkson, R.P.I.

By The Court: The parties having notified this court that the case has settled, the petition for writ of mandate is dismissed as moot. Haerle, Acting P.J.

Wednesday, January 13, 1999 (continued)

DIVISION FOUR

A071728 -- Diane L. Sangster v. Phoebe Hearst Cooke et al.

That portion of the order awarding Sangster \$22,500 for “her Labor Code claims” is affirmed. That portion of the portion awarding her \$427,500 for “her FEHA claim and pursuant to C.C.P. § 1021.5” is reversed and the cause is remanded to the trial court for further proceedings consistent with this opinion. The parties shall bear their respective costs on this appeal. Reardon, J. We concur: Hanlon, P.J., Poché, J. (Not for Publication.)

A078736 -- Morrison Knudsen Corporation et al. v. Hancock, Rothert & Bunshoft, LLP et al.

The order granting the motion for a preliminary injunction is affirmed with costs to Morrison and Centennial. Hanlon, P.J. We concur: Poché, J., Reardon, J. (Certified for Publication.)

DIVISION FIVE

A081194 -- The People v. Daniel Winton Young.

The judgment is affirmed. Stevens, J. We concur: Jones, P.J., Haning, J. (Not for Publication.)

MINUTES

CALIFORNIA COURT OF APPEAL
FIRST APPELLATE DISTRICT
DIVISION TWO

Wednesday, January 13, 1999

The Court met at 9:30 a.m. in its courtroom at 303 - Second Street, 4th Floor, San Francisco. Present: Kline, P. J., Lambden, J., Ruvolo, J. and S. Graham, Deputy Clerk.

A082133 Elizabeth Colpoys
v.
Steven A. Schwab
Cause called and argued by Elizabeth Colpoys, appellant in propria persona and Bernard Wolf, counsel for respondent. Cause ordered submitted.

A080111 George A. McKray
v.
Robert Wright, et al.
Cause called and argued by Dennis Hyde, counsel for appellants and Pamela Pitt, counsel for respondent. Cause ordered submitted.

A075328 In re the Marriage of Barry and Susann Margreth Bonds.
A076586 Barry Bonds
v.
Susann Margreth Bonds
Causes called and argued by Paige Wickland, counsel for appellant and Richard Sherman, counsel for respondent. Causes ordered submitted.

Court recessed until 1:30 p.m.

Court reconvened at 1:30 p.m. Present: Kline, J., Haerle, J., Ruvolo, J., and I. Santos, Deputy Clerk.

A078887 The People,
v.
Thomas Ray Winger.
Cause called and argued by Eric Multhaup, counsel for appellant, and

Bruce Ortega, Deputy Attorney General, counsel for respondent. Cause ordered submitted.

A080690 Ronald Guenther et al.,
v.
Board of Supervisors for the County of Mendocino.
Cause called and appearances made by Allan Cone, counsel for real party in interest, and Frank Zotter, counsel for respondent. Cause was not argued. Cause ordered submitted.

A083486 Mark Aronson,
v.
Ben Melton et al.
Cause called and argued by Madeline Sager, counsel for appellant, and Valerie McGuire, counsel for respondent. Cause ordered submitted.

COURT ADJOURNED.

MINUTES

COURT OF APPEAL
STATE OF CALIFORNIA
FIRST APPELLATE DISTRICT

Thursday, January 14, 1999

DIVISION ONE

A080187 -- James McBride et al. v. William D. Thomson et al.

The judgment filed August 6, 1997, dismissing McBrides' case No. V-013051-8, and the order sustaining demurrer without leave to amend are reversed. The denial of Thomson's requests for costs and fees in the demurrer proceedings is affirmed. McBrides shall recover costs on the appeal and cross-appeal. Swager, J. We concur: Strankman, P.J., Marchiano, J. (Not for Publication.)

A080307 -- Melissa Mensch v. George Rogers et al.

The motion to dismiss appeal is denied. The judgment is affirmed. The request for sanctions is denied. Respondent is awarded her costs on appeal. Stein, J. We concur: Strankman, P.J., Marchiano, J. (Not for Publication.)

A081219 -- Huppert & Hurabiell v. Daniel Ray Bacon.

The judgment is affirmed. Stein, J. We concur: Strankman, P.J., Swager, J. (Not for Publication.)

A081239, A081246, A081253 -- General Motors Corporation v. City and County of San Francisco.

The judgment is reversed and the cases remanded to the trial court for entry of judgment in favor of General Motors on its tax refund claim. (Gov. Code, §§ 935, subd. (a), 940.4, 945; S.F. Mun. Code, § 1017.) General Motors is not entitled to any relief or attorney fees under federal civil rights law. (42 U.S.C. §§ 1983, 1988, subd. (b).) General Motors shall recover costs on appeal. Strankman, P.J. We concur: Swager, J., Marchiano, J. (Certified for Publication.)

Thursday, January 14, 1999 (continued)

DIVISION TWO

A080122 -- Sheryle Barkat v. A.P. Green Services, Inc.

The judgment is affirmed. Lambden, J. We concur: Kline, P.J., Ruvolo, J. (Not for Publication.)

A081343 -- Karyne Cornell v. John Glynn et al.

We affirm the judgment. Cornell is awarded costs on appeal. Lambden, J. We concur: Kline, P.J., Ruvolo, J. (Not for Publication.)

A082061 -- The People v. Daniel Joseph Cendejas.

The judgment is affirmed. Lambden, J. We concur: Kline, P.J., Haerle, J. (Not for Publication.)

A082201 -- Estate of Marie Elizabeth Schubert, Deceased.

Mary K. Erhardt v. Marcia Tuttle et al.

The judgment of the trial court is affirmed. Ruvolo, J. We concur: Kline, P.J., Haerle, J. (Not for Publication.)

A084627 -- In re Diamond S., a Person Coming Under the Juvenile Court Law.

The petition for extraordinary writ is denied on the merits. (See Cal. Const., art. VI, § 14; *Kovis v. Howard* (1992) 3 Cal.4th 888; § 366.26, subd. (l) [precluding further challenge to these orders by petition in any subsequent appeal].) Since the permanency planning hearing is presently set for January 25, 1999, our decision is final as to this court immediately. (Cal. Rules of Court, rule 24(d).) Kline, P.J. We concur: Haerle, J., Lambden, J. (Not for Publication.)

Thursday, January 14, 1999 (continued)

A085404 -- In re Javed Alsam, on Habeas Corpus.

By The Court: The petition for writ of habeas corpus is denied. Petitioner must first seek habeas corpus relief, if any, in the superior court. Haerle, Acting P.J.

DIVISION FOUR

A080721 -- Eugene A. White v. Thomas C. Marsella.

The appeal is dismissed. Respondent shall recover his costs on appeal. Sepulveda, J. We concur: Hanlon, P.J., Poché, J. (Not for Publication.)

A081297 -- Lee J. Sneath, Jr. et al. v. Ann S. Bowers, as Trustee, etc.

Modification of Opinion; By The Court: The signature page of this court's opinion filed December 23, 1998, is modified as attached. (See Modification.) There is no change in the judgment. Hanlon, P.J. (Not for Publication.)

A082930 -- Robert R. Cramer v. California Highway Patrol et al.

Modification of Opinion; By The Court: The signature page of this court's opinion filed December 23, 1998, is modified as attached. (See Modification.) There is no change in the judgment. Hanlon, P.J. (Not for Publication.)

DIVISION FIVE

A080073 -- The People v. Sean Chestnut.

The judgment is affirmed. Jones, P.J. We concur: Haning, J., Stevens, J. (Not for Publication.)

Thursday, January 14, 1999 (continued)

A080468 -- Derald Seid v. Milen Janeff et al.

The judgments of the trial court are reversed. Stevens, J. We concur: Jones, P.J., Haning, J. (Not for Publication.)

A082030 -- Oscar Larson & Associates v. Gualala Community Services District.

The judgment is affirmed. Haning, J. We concur: Jones, P.J., Stevens, J. (Not for Publication.)

A082111 -- Sorin J. Issvoran v. John Moldovan et al.

The appeal from the order denying the motion to amend the statement of decision is dismissed. Haning, J. We concur: Jones, P.J., Stevens, J. (Not for Publication.)

MINUTES

COURT OF APPEAL
STATE OF CALIFORNIA
FIRST APPELLATE DISTRICT

Friday, January 15, 1999

DIVISION ONE

A084886 -- Rachel R. v. The Superior Court of Alameda County, Alameda County Social Services, R.P.I.

A084887 -- Esperanza C. v. The Superior Court of Alameda County, Alameda County Social Services, R.P.I.

The petition for extraordinary writ is denied on the merits. (See Cal. Const., art. VI, § 14; *Kowis v. Howard* (1992) 3 Cal.4th 888, 894; *Bay Development, Ltd. v. Superior Court* (1990) 50 Cal.3d 1012, 1024.) The section 366.26 hearing is set for February 19, 1999. Therefore, our decision is final in this court immediately. (Cal. Rules of Court, rule 24(d).) Stein, J. We concur: Swager, J., Marchiano, J. (Not for Publication.)

DIVISION TWO

A074667; A075967; A076133 -- Gurnam Singh v. Peter Daniel Bogart et al.

The amended order of June 25, 1996, adding Peter D. Bogart and Punty Bogart as alter egos and additional judgment debtors to the judgment against WLB is affirmed. Respondent shall recover his costs on this appeal. Kline, P.J. We concur: Haerle, J., Lambden, J. (Not for Publication.)

Friday, January 15, 1999 (continued)

A077567 -- Gurnam Singh v. Ojavan Investors, Inc. et al.

In these circumstances, the refusal of the trial court to allow appellants' trial counsel to orally argue the motion to strike/tax costs does not require reversal of the order granting the motion.

We affirm. Singh is awarded his costs on this appeal. Kline, P.J. We concur: Haerle, J., Lambden, J. (Not for Publication.)

A079032 -- The People v. Roderick Edward Hardnett.

The judgment is affirmed. Kline, P.J. We concur: Haerle, J., Lambden, J. (Not for Publication.)

MINUTES

COURT OF APPEAL
STATE OF CALIFORNIA
FIRST APPELLATE DISTRICT
DIVISION THREE

Friday, January 15, 1999

Court convened at 9:00 a.m.. in its Courtroom at 303 Second Street, Marathon Plaza, South Tower, Fourth Floor, San Francisco, California.

Present: Phelan, Acting P.J.*, Parrilli, and J. Casados, Deputy Clerk.

A081199 In re ANTOINE M., a Person Coming Under the Juvenile Court Law.

The People,

v.

Antoine M.

No objection by counsel to Justice Corrigan's absence at oral argument.

Cause called and argued by Carol Strickman, counsel for appellant. David Salmon, Deputy Attorney General, did not appear at argument.

Respondents argument deemed waived. Cause ordered submitted.

A081136 Vizma V. Cantwell,

v.

Moore, Sizoo & Nieman et al.

No objection by counsel to Justice Corrigan's absence at oral argument.

Cause called and argued by Richard J.L. Nelson, counsel for appellant, and Walter C. Cook, counsel for respondent. Cause ordered submitted.

Justice Walker took the bench.

A081709A Patrick Lapin et al.,

v.

Larry Lockshin.

Cause called and argued by Gary O. Alexander, in pro per & counsel for appellants, and Paul D. Hoskins, counsel for respondent. Cause ordered submitted.

Justice McGuinness took the bench. Justice Phelan* left the bench.

A080747 Dorothy Chaknova, as Successor, etc.,
v.
Wilbur-Ellis.
Cause called and argued by Gilbert L. Purcell, counsel for appellant, and
Mark S. Kannett, counsel for respondent. Cause ordered submitted.

A081249 Martin M. Segoria,
v.
Wilbur-Ellis Company.
Cause called and argued by Gilbert L. Purcell, counsel for appellant, and
Mark S. Kannett, counsel for respondent. Cause ordered submitted.
Justice Walker left the bench.

A080180 Coalition for One-Stop Terminal et al.,
v.
San Francisco Bay Area Rapid Transit et al.
No objection by counsel to Justice Corrigan's absence at oral argument.
Cause called and argued by J. William Yeates, counsel for appellant, and
Sharon M. Solomon, counsel for respondent. Cause ordered submitted.

Court recessed until 1:30 p.m.

* Retired Presiding Justice of the Court of Appeal, First District assigned
by the Chief Justice pursuant to article VI, section 6 of the California
Constitution.

COURT OF APPEAL
STATE OF CALIFORNIA
FIRST APPELLATE DISTRICT
DIVISION THREE

Friday January 15, 1999

Court reconvened at 1:30 p.m. in its Courtroom at 303 Second Street, Marathon Plaza,
South Tower, Fourth Floor, San Francisco, California.

Present: Phelan, Acting P.J.*, Walker, J. and C. Turner, Deputy Clerk.

- A081519 Roger E. Smith, Inc.,
 v.
 County of Humboldt,
 Counsel has no objection to Justice Corrigan's absence and her
 listening to the audio tape of oral argument.
 Cause called and argued by Tim McNerney, counsel for appellant, and
 William F. Mitchell, counsel for respondent. Cause ordered submitted.
- A080249 Diana Vuillemanroy, et al.,
 v.
 American Rock and Asphalt, Inc., et al.,
 Counsel has no objection to Justice Corrigan and Justice Parrilli's absence
 and their listening to the audio tape of oral argument.
 Cause called and argued by Mark Jacobs, counsel for appellant, and Nancy
 P. McCarthy, counsel for respondent. Cause ordered submitted.
 * Retired Presiding Justice of the Court of Appeal, First District assigned
 by the Chief Justice pursuant to article VI, section 6 of the California
 Constitution.

court adjourned

MINUTES

COURT OF APPEAL
STATE OF CALIFORNIA
FIRST APPELLATE DISTRICT

Tuesday, January 19, 1999

DIVISION TWO

**A085193 -- Elliot Scott Grizzle v. The Superior Court of Del Norte County,
The People of the State of California, R.P.I.**

By The Court: The petition for writ of prohibition/mandate is denied. We note that petitioner is charged with conspiracy to commit murder with Gary Littrell or *with another person* and overt act 2 alleges that petitioner caused inmate Contreras to deliver the drugged alcohol to the victim. Haerle, Acting P.J.

**A085480 -- Edward Wang v. The Superior Court of Solano County, Lorri
Wang, R.P.I.**

The petition for writ of mandate is denied as untimely. (Code Civ. Proc., § 170.3, subd. (d).) Haerle, Acting P.J.

**A085484 -- Thomas Lloyd Dudley v. The Superior Court of Sonoma County,
The People of the State of California, R.P.I.**

By The Court: The petition for writ of mandate/stay is denied without prejudice. Petitioner has failed to show compliance with the provisions of Penal Code section 1510. Haerle, Acting P.J.

Tuesday, January 19, 1999 (continued)

DIVISION THREE

A077568 -- Healys Stevenson v. California Pacific Medical Center et al.

The judgment is affirmed. CPMC shall recover its costs on appeal. Parrilli, J. We concur: Phelan, J.*, Corrigan, Acting P.J.

*Retired Presiding Justice of the Court of Appeal, First District, assigned by the Chief Justice pursuant to article VI, section 6 of the California Constitution. (Not for Publication.)

A080638 -- Acceptance Insurance Company v. Syufy Enterprises et al.

The judgment is affirmed. Reliance shall recover its costs on appeal. Parrilli, J. We concur: Phelan, J.*, Corrigan, Acting P.J.

*Retired Presiding Justice of the Court of Appeal, First District, assigned by the Chief Justice pursuant to article VI, section 6 of the California Constitution. (Certified for Publication.)

DIVISION FIVE

A079709 -- The People v. Theodore Allen Hawn.

The judgment is affirmed. Jones, P.J. We concur: Haning, J., Stevens, J. (Not for Publication.)

Courtroom Minutes
Division 4
Tuesday, January 19, 1999

Court convened at 9:30 a.m. in its courtroom at 303-2nd Street, 4th Floor, San Francisco. Present: Hanlon, P.J., Poche, J. and McGuiness, J.; Channing Hoo, Deputy Clerk and CHP Officer Richard Wetzel, Bailiff.

A077629 United States Golf Association
 v.
 Arroyo Software Corporation
Cause called and argued by Joseph M. Alioto, counsel for appellant/cross-respondent Arroyo, and by Lee Abrams, counsel for respondent/cross-appellant. Cause ordered submitted.

At this point, the court reconstituted itself to include Hanlon, P.J., Reardon, J. and McGuiness, J.

A080439 Adam Lazar
A080767 v.
 The Hertz Corporation et al.
Causes called and argued by Sheri Pym, counsel for appellant Lazar, and by Robert E. Borton, counsel for respondents. Causes ordered submitted.

At this point, the court reconstituted itself to include Poche, Acting P.J., Reardon, J. and McGuiness, J.

A081244 Fernando De Sanjines et al.
 v.
 Lee Elfenbein et al.
Cause called and argued by Elizabeth F. McDonald, counsel for appellants De Sanjines et al., and by Rosemary Springer and Charles Redfield, counsel for respondents. Cause ordered submitted.

Court recessed at 10:52 a.m.

Courtroom Minutes
Division 4
Tuesday January 19, 1999

Court reconvened at 1:30 p.m. in its courtroom at 303-2nd Street, 4th Floor, San Francisco. Present: Hanlon, P.J., Poche, J., Reardon, J., Jim Campbell, Deputy Clerk and CHP Officer Richard Wetzel, Bailiff.

A078456 People,
 respondent,
 v.
 David Thomas Emerson,
 appellant.

Cause called. Dennis Fischer argued on behalf of appellant, David Thomas Emerson. Christopher Wei, D.A.G., argued on behalf of respondent. Cause submitted.

A078624 Glenco Squaw Associates,
A078903 appellant,
A079124 v.
 Randall J. Verrue et al.,
 respondents.

Causes called. Jerome Falk argued on behalf of appellant, Glenco Squaw Associates. Charles Cohler argued on behalf of respondents. Cause submitted.

A074728 People,
 respondent,
 v.
 William Gordon Barnhard,
 appellant.

Cause called. Stewart Pollack appeared on behalf of appellant William Gordon Barnhard. Gregory Ott, D.A.G., appeared on behalf of respondent. Additional briefing was ordered. Submission deferred.

A082091 Florentino A. Dumpit, Jr. et al.,
 respondents,
 v.
 Dame Construction Company, Inc.
 appellant.

Cause called. Timothy Blaine argued on behalf of appellant, Dame Construction Company. Soni Leighton argued on behalf of respondents. Cause submitted.

At this time the Court reconstituted itself with Hanlon, P.J., Reardon, J. and Sepulveda, J.

A080399 People,
 respondent,
 v.
 Michael W. Hudson,
 appellant.

Cause called. Stephen Greenberg argued, by teleconference, on behalf of appellant, Michael W. Hudson. Shannon Chase, D.A.G., argued on behalf of respondent. Cause submitted.

The Court adjourned at 3:25 p.m.

MINUTES

COURT OF APPEAL
STATE OF CALIFORNIA
FIRST APPELLATE DISTRICT

Wednesday, January 20, 1999

DIVISION ONE

A078515 -- Richard B. Pasek et al. v. Burton Village Limited et al.

The judgment is affirmed. Costs are awarded to respondents. Swager, J. We concur: Strankman, P.J., Marchiano, J. (Not for Publication.)

A084903 -- Charisse S. v. The Superior Court of Solano County, Solano County Department of Social Services et al., R.P.I.

The challenged orders are supported by substantial evidence. (*James B. v. Superior Court* (1995) 35 Cal.App.4th 1014, 1021.) The petition for extraordinary writ is denied on the merits. (See Cal. Const., art. VI, § 14; *Kowis v. Howard* (1992) 3 Cal.4th 888, 894; *Bay Development, Ltd. v. Superior Court* (1990) 50 Cal.3d 1012, 1024.)

The section 366.26 hearing is set for February 11, 1999. Therefore, our decision is final in this court immediately. (Cal. Rules of Court, rule 24(d).) Swager, J. We concur: Strankman, P.J., Stein, J. (Not for Publication.)

DIVISION TWO

A078553 -- The People v. Jose Rodriguez.

The finding that Rodriguez's prior conviction for resisting an officer constitutes a second strike is reversed. We remand to provide the People the option to re-try Rodriguez on the second strike allegation. (*People v. Monge* (1997) 16 Cal.4th 826.) In all other respects the judgment is affirmed. Haerle, J. We concur: Kline, P.J., Ruvalo, J. (Certified for Partial Publication.)

Wednesday, January 20, 1999 (continued)

DIVISION THREE

A081456 -- Lauren Keegan v. ComputersAmerica, Inc.

The judgment is affirmed. Phelan, J.* We concur: Corrigan, Acting P.J., Walker, J.

*Retired Presiding Justice of the Court of Appeal, First District, assigned by the Chief Justice pursuant to article VI, section 6 of the California Constitution. (Not for Publication.)

A083846 -- The People v. Shane William Phillips.

Our review of the record reveals that appellant was ably represented by counsel throughout the proceedings. We find no issues requiring further briefing and affirm the judgment. Walker, J. We concur: Corrigan, Acting P.J., Parrilli, J. (Not for Publication.)

DIVISION FIVE

A081145 -- The People v. Michael McGavock.

The order of the trial court is affirmed. Stevens, J. We concur: Jones, P.J., Haning, J. (Certified for Publication.)

MINUTES

COURT OF APPEAL
STATE OF CALIFORNIA
FIRST APPELLATE DISTRICT

Thursday, January 21, 1999

DIVISION ONE

A079129 -- The People v. Hilario Acap.

The judgment is affirmed. Swager, J. We concur: Stein, Acting P.J., Marchiano, J. (Not for Publication.)

A080576 -- The People v. Serge Rigo.

The judgment is affirmed. Marchiano, J. We concur: Stein, Acting P.J., Swager, J. (Certified for Publication.)

DIVISION TWO

A078285 -- Elizabeth Rosemary Campbell et al. v. Parker-Hannifin Corporation et al.

The order staying the action as to defendants Parker-Hannifin Corporation, Instrument Pro, Inc., and Brent's International, Inc. based on the doctrine of forum non conveniens is affirmed. The summary judgment in favor of Cessna Aircraft Company is also affirmed. Kline, P.J. We concur: Haerle, J., Lambden, J. (Not for Publication.)

A079853 -- The People v. Steven J. Fotinos.

The judgment is affirmed. Ruvalo, J. We concur: Haerle, Acting P.J., Lambden, J. (Not for Publication.)

Thursday, January 21, 1999 (continued)

A082647 -- The People v. Ronald Jon Juan.

The restitution order is stricken. In all other respects, the judgment is affirmed. Haerle, J. We concur: Kline, P.J., Ruvolo, J. (Not for Publication.)

A082660 -- Theodore F. Posthuma v. Town of San Anselmo.

The judgment is affirmed. Haerle, J. We concur: Kline, P.J., Ruvolo, J. (Not for Publication.)

A085257 -- Ross Howard Granton, et al. v. The Superior Court of Sonoma County, Michael Robert Doughty, R.P.I.

By The Court: The petition for writ of mandate/stay is denied. Haerle, Acting P.J.

A085503 -- In re Escenthio Marigny, on Habeas Corpus.

By The Court: The petition for writ of habeas corpus is denied. Haerle, Acting P.J.

DIVISION THREE

A082912 -- In re Joseph R., a Person Coming Under the Juvenile Court Law.

The maximum term of the minor's commitment is reduced to five years, and the cause is remanded for the juvenile court to correct the record accordingly. The judgment is otherwise affirmed. Corrigan, Acting P.J. We concur: Parrilli, J., Walker, J. (Not for Publication.)

Thursday, January 21, 1999 (continued)

**A085029 -- Jackie B. v. The Superior Court of Napa County, Napa County
Department of Health and Human Services, R.P.I.**

The orders terminating reunification services and setting a selection and implementation hearing (§ 366.26 hearing) are supported by substantial evidence. The petition for an extraordinary writ is denied on the merits. (See Cal. Const., art. VI, § 14; *Kowis v. Howard* (1992) 3 Cal.4th 888, 894; *Bay Development, Ltd. v. Superior Court* (1990) 50 Cal.3d 1012, 1024.)

The section 366.26 hearing is set for January 28, 1999. Therefore, our decision is final in this court immediately. Walker, J. We concur: Corrigan, Acting P.J., Parrilli, J. (Not for Publication.)

DIVISION FOUR

A082057 -- The People v. David W. Elmore.

The judgment, including the sentence, is affirmed. Reardon, J. We concur: Hanlon, P.J., McGuiness, J.*

*Presiding Justice, Court of Appeal, First Appellate District, Division Three, assigned by the Chief Justice pursuant to article VI, section 6 of the California Constitution. (Not for Publication.)

DIVISION FIVE

A081073 -- In re Tiffany P., a Person Coming Under the Juvenile Court Law.

The order of the trial court is affirmed. Stevens, J. We concur: Jones, P.J., Haning, J. (Not for Publication.)

MINUTES
COURT OF APPEAL
STATE OF CALIFORNIA
FIRST APPELLATE DISTRICT

DIVISION FIVE

Thursday, January 21, 1999

Court convened at 9:00 a.m. in its Courtroom at 303 Second Street, South Tower, Fourth Floor, San Francisco, California. Present: Jones, P.J.; Haning, J.; Stevens, J.; and Richard H. Sandvik Deputy Clerk.

- A082945 National Casualty Company et al.
 v.
 Ann M. Veneman
 Cause called and argued by Michael R. Simmonds, counsel for appellant,
 and by John M. Ross, counsel for respondent. Submission deferred until
 February 2, 1999.
- A082220 XL Homes, Inc., et al.
 v.
 Cobblestone Development Corporation
 Cause called and argued by James C. Monroe, counsel for appellant, and by
 Christopher G. Costin, counsel for respondent. Submission deferred until
 February 2, 1999.
- A080864 Regina Davis et al.
 v.
 State Farm Insurance Company
 Cause ordered continued to February calendar.
- A082494 The People
 v.
 Garth Egan Powelson
 Cause called and argued by Donald L. Lipmanson, counsel for appellant,
 and by Matthew P. Boyle, Deputy Attorney General, counsel for

respondent. Submission deferred until February 2, 1999.

A084151 In re Garth Egan Powelson on Habeas Corpus

Cause called and argued by Donald L. Lipmanson, counsel for petitioner, and by Matthew P. Boyle, Deputy Attorney General, counsel for respondent. Submission deferred until February 2, 1999.

A082151 The People

v.

Robert Angelo Pizzagrani

Cause called and argued by Peggy S. Ruffra, Deputy Attorney General, counsel for appellant, and by Ronald R. Boyer, counsel for respondent. Submission deferred until February 2, 1999.

A079849 The People

v.

Kevin Hosea Thomas

Cause called and argued by J. Bradley O'Connell, counsel for appellant, and by Raymond A. Cardozo, Deputy Attorney General, counsel for respondent. Submission deferred until February 2, 1999.

A081791 The People

v.

Arturo Eusebio Figueroa

Cause called and argued by Heather J. MacKay, counsel for appellant, and by Matthew P. Boyle, Deputy Attorney General, counsel for respondent. Submission deferred until February 2, 1999.

A084032 In re Arturo E. Figueroa on Habeas Corpus

Cause called and argued by Heather J. MacKay, counsel for petitioner, and by Matthew P. Boyle, Deputy Attorney General, counsel for respondent. Cause ordered submitted.

MINUTES

COURT OF APPEAL
STATE OF CALIFORNIA
FIRST APPELLATE DISTRICT

Friday, January 22, 1999

DIVISION ONE

A077768 -- The People v. Kao Kouei Saechao et al.

Order Modifying Opinion and Denying Rehearing; The Court: It is ordered that the opinion filed herein on December 23, 1998, be modified in the following particulars: (See Order.)

There is no change in the judgment.

The petition for rehearing is denied. Strankman, A.P.J. (Not for Publication.)

A082222 -- The People v. Joseph Trevino.

The judgment is affirmed. Swager, J. We concur: Strankman, P.J., Marchiano, J. (Not for Publication.)

DIVISION TWO

A080410 -- Texas-Ohio Energy, Inc. v. Glenn J. Dick et al., Enserch Energy Services, Inc.

A080959 -- Texas-Ohio Energy, Inc. v. Glenn J. Dick.

The judgment is affirmed. Texas-Ohio is to pay the costs of its appeal and Dick is to pay the costs of his appeal. Lambden, J. We concur: Kline, P.J., Ruvolo, J. (Not for Publication.)

Friday, January 22, 1999 (continued)

A082652 -- The People v. Duane Singleton.

A084569 -- In re Duane Singleton On Habeas Corpus.

The judgment is affirmed and the petition for a writ of habeas corpus is denied. Haerle, J. We concur: Kline, P.J., Ruvolo, J. (Not for Publication.)

DIVISION FOUR

A078456 -- The People v. David Thomas Emerson.

The judgment is modified to suspend the \$1,000 restitution fine imposed pursuant to section 1202.45 unless appellant's parole is revoked. In all other respects, the judgment is affirmed. Hanlon, P.J. We concur: Poché, J., Reardon, J. (Not for Publication.)

A083054 -- The People v. Harold Joseph Powell.

The judgment is affirmed. Hanlon, P.J. We concur: Poché, J., Reardon, J. (Not for Publication.)

A084114 -- The People v. Kyle Gordon Gunderson.

The judgment is affirmed. Hanlon, P.J. We concur: Poché, J., Reardon, J. (Not for Publication.)

DIVISION FIVE

A076387 -- The People v. David Michael Graves.

The judgment is affirmed. Haning, J. We concur: Jones, P.J., Stevens, J. (Not for Publication.)

Friday, January 22, 1999 (continued)

A081682 -- The People v. Ezequiel Reyes Tomelloso.

The judgment is affirmed. Jones, P.J. We concur: Haning, J., Stevens, J. (Not for Publication.)

MINUTES

COURT OF APPEAL
STATE OF CALIFORNIA
FIRST APPELLATE DISTRICT

Monday, January 25, 1999

DIVISION ONE

A079962 -- Homeowners Association of Seaview Community et al. v. The Housing Group et al., Design Professionals Insurance Company.

The order denying the petition for intervention is affirmed. Each party shall bear its own costs of this appeal. Marchiano, J. We concur: Strankman, P.J., Swager, J. (Not for Publication.)

DIVISION TWO

A080111 -- George A. McKray v. Robert Wright et al.

The judgment of dismissal and the order granting sanctions are affirmed. Respondent's request for sanctions for a frivolous appeal is denied. However, respondent's request for costs and attorneys' fees incurred in this appeal is granted and the matter is remanded to the trial court for a determination of the amount of reasonable attorneys' fees that should be awarded to respondent. (See *580 Folsom Associates v. Prometheus Development Co., supra*, 223 Cal.App.3d at p. 30.) Kline, P.J. We concur: Lambden, J., Ruvolo, J. (Not for Publication.)

A085546 -- Tien-Tsai Chiang v. The Superior Court of Contra Costa County, Tse Mu Chiang, et al., R.P.I.

By The Court: The petition for writ of mandate/prohibition/stay is denied. Haerle, Acting P.J.

Monday, January 25, 1999 (continued)

A085557 -- In re Guy Shepherd on Habeas Corpus.

By The Court: The petition for writ of habeas corpus is denied. Haerle, Acting P.J.

DIVISION FOUR

A079281 -- The People v. Patricia Saviola.

The judgment is affirmed. Poché, J. We concur: Hanlon, P.J., Reardon, J. (Not for Publication.)

A082534 -- The People v. Edward Moody Dabney.

The judgment is affirmed. Sepulveda, J. We concur: Hanlon, P.J., Poché, J. (Not for Publication.)

DIVISION FIVE

A079978 -- Richard W. Seibert v. Northbrook Property and Casualty Insurance Company.

The judgment is affirmed. Costs to respondent. Haning, J. We concur: Jones, P.J., Stevens, J. (Not for Publication.)

A081662 -- Gloria Bailey v. Bay Area Air Quality Management District.

The order denying appellant's petition for relief from the claim filing requirement and the judgment entered thereon are affirmed. Haning, J. We concur: Jones, P.J., Stevens, J. (Not for Publication.)

Monday, January 25, 1999 (continued)

A081729 -- In re Rianna C., a Person Coming Under the Juvenile Court Law.

In re Shawna C., a Person Coming Under the Juvenile Court Law.

The judgment is affirmed. Haning, J. We concur: Jones, P.J., Stevens, J. (Not for Publication.)

A083172 -- Andrey Zavarzin v. City and County of San Francisco.

The judgment is affirmed. Jones, P.J. We concur: Haning, J., Stevens, J. (Not for Publication.)

A083354 -- In re Samuel H., a Person Coming Under the Juvenile Court Law.

The order adjudicating appellant a ward of the court pursuant to Welfare and Institutions Code section 602 and committing him to CYA is affirmed. Jones, P.J. We concur: Haning, J., Stevens, J. (Not for Publication.)

A083774 -- In re Kevin M., a Person Coming Under the Juvenile Court law.

The order adjudicating appellant a ward of the court pursuant to Welfare and Institutions Code section 602 and committing him to CYA is affirmed. Haning, J. We concur: Jones, P.J., Stevens, J. (Not for Publication.)

A084543 -- Transamerica Homefirst, Inc. v. Superior Court of San Mateo County, San Mateo County Public Guardian, etc., R.P.I.

The order to show cause is discharged, and the petition for writ of mandate is denied. Jones, P.J. We concur: Haning, J., Stevens, J. (Certified for Publication.)

MINUTES

COURT OF APPEAL
STATE OF CALIFORNIA
FIRST APPELLATE DISTRICT

Tuesday, January 26, 1999

DIVISION ONE

A077264 -- The People v. Jammie Anne McLean.

We remand the matter to the trial court, with directions to modify the abstract of judgment to strike the conviction of conspiracy to commit attempted murder and add the conviction of conspiracy to obstruct justice, with the one-year term for that offense stayed under section 654. (See § 182, subd. (a).) The trial court also is directed to forward the modified abstract of judgment to the Department of Corrections. As modified, the judgment is affirmed. Strankman, P.J. We concur: Swager, J., Marchiano, J. (Not for Publication.)

A083430 -- In re Melody G., a Person Coming Under the Juvenile Court Law.

The judgment is affirmed. Stein, J. We concur: Strankman, P.J., Marchiano, J. (Not for Publication.)

A085034 -- In re David Rodriguez on Habeas Corpus.

Accordingly, as no purpose would be served by issuing an order to show cause, the petition for writ of habeas corpus is granted to the extent that the County of Alameda Superior Court is ordered to file an amended abstract of judgment in People v. David Rodriguez (No. 125833A) granting petitioner a total of 403 days of presentence credits (269 actual days plus 134 goodtime/worktime credit) and to transmit a copy of the amended abstract to the Department of Corrections and to petitioner.

In all other respects, the petition for writ of habeas corpus is denied. This opinion is final as to this court immediately. (Cal. Rules of Court, rule 24(d).) Swager, J. We concur: Stein, Acting P.J., Marchiano, J. (Not for Publication.)

Tuesday, January 26, 1999 (continued)

DIVISION TWO

A080323 -- Estate of Robert L. Barneson, Deceased.

Michael McGirr, as Executor v. Evelyn Kaiser Barneson.

The trial court's decision on the bifurcated issue is reversed. Each party to bear own costs. Kline, P.J. We concur: Haerle, J., Lambden, J. (Certified for Publication.)

**A085579 -- David Shore v. The Superior Court of Contra Costa County,
William Ellis, R.P.I.**

By The Court: The petition for writ of mandate/stay is denied. Haerle, Acting P.J.

**A085581 -- David Shore v. The Superior Court of San Francisco County,
Conservatorship of Marvel Shore, R.P.I.**

By The Court: The petition for writ of mandate/stay is denied. Haerle, Acting P.J.

DIVISION THREE

A077156 -- James Wilson White v. Fremont Associates et al.

The judgment is affirmed and sanctions are awarded in the amount set forth above. Respondents shall recover their costs on appeal. Corrigan, Acting P.J. We concur: Parrilli, J., Walker, J. (Not for Publication.)

A077641 -- The People v. Keith C. Fox.

The judgment is affirmed. The sentence is modified to reflect 68 days conduct credit. The trial court is directed to prepare and forward to the Department of Corrections an amended abstract of judgment reflecting the conduct credits. Corrigan, Acting P.J. We concur: Parrilli, J., Walker, J. (Not for Publication.)

Tuesday, January 26, 1999 (continued)

A082355 -- Donald A. Stephens v. Eleanor M. Stephens.

The judgment is affirmed. Costs to respondent. Parrilli, J. We concur: Corrigan, Acting P.J., Walker, J. (Not for Publication.)

A082362 -- The People v. Leonard Thomas McCuan.

The judgment is affirmed. Corrigan, Acting P.J. We concur: Parrilli, J., Walker, J. (Not for Publication.)

A082506 -- In re Richard C. et al., Persons Coming Under the Juvenile Court Law.

Order Denying Petition for Rehearing and Modifying Opinion; The Court: The petition for rehearing is denied. There is no change in judgment. It is ordered that the opinion filed herein on December 30, 1998 be modified in the following particulars: (See Order.) McGuiness, P.J. (Certified for Publication.)

A083932 -- The People v. Frederick Anthony Horr.

The judgment is affirmed. Corrigan, J. We concur: McGuiness, P.J., Walker, J. (Not for Publication.)

DIVISION FOUR

A077629 -- United States Golf Association v. Arroyo Software Corporation.

The judgment is affirmed. Each party shall bear its own costs on appeal. McGuiness, J.* We concur: Hanlon, P.J., Poché, J

*Presiding Justice of the Court of Appeal, First Appellate District, Division Three, assigned by the Chief Justice pursuant to article VI, section 6 of the California Constitution. (Certified for Publication.)

Tuesday, January 26, 1999 (continued)

A078890 -- The People v. Gary Harold Walker.

The judgment is affirmed. McGuiness, J.* We concur: Hanlon, P.J., Reardon, J.

* Presiding Justice of the Court of Appeal, First Appellate District, Division Three, assigned by the Chief Justice pursuant to article VI, section 6 of the California Constitution. (Not for Publication.)

A080393 -- The People v. Thomas Michael Moore.

Order Modifying Opinion and Granting Publication; By The Court: The opinion filed December 31, 1998, is modified to read as attached. (See Attachment.) The modifications do not change the judgment. The request to publish the opinion is granted and the opinion, as modified, is certified for publication in the Official Reports. Hanlon, P.J. (Certified for Publication.)

A081244 -- Fernando De Sanjines et al. v. Community United Against Violence et al.

Judgment affirmed. Reardon, J. We concur: Poché, Acting P.J., McGuiness, J.*

*Presiding Justice, Court of Appeal, First Appellate District, Division Three, assigned by the Chief Justice pursuant to article VI, section 6 of the California Constitution. (Not for Publication.)

A082091 -- Lawrence Bushard et al. v. Dame Construction Company, Inc.

The judgment is affirmed. The homeowners are to recover their costs on this appeal. Hanlon, P.J. We concur: Poché, J., Reardon, J. (Not for Publication.)

Tuesday, January 26, 1999 (continued)

A082977 -- Atima Technology, Inc. v. Nova Interactive, Inc.

The trial court's order quashing service of summons on respondent is reversed. In addition, respondent's motion to dismiss or stay the action on the grounds of forum non conveniens is denied. Respondent to bear costs of appeal. McGuiness, J.* We concur: Hanlon, P.J., Reardon, J.

*Presiding Justice, Court of Appeal, First Appellate District, Division Three, assigned by the Chief Justice pursuant to article VI, section 6 of the California Constitution (Not for Publication.)

DIVISION FIVE

A080118 -- Ramon Zamudio v. City and County of San Francisco et al.

The judgments of the trial court are affirmed. Stevens, J. We concur: Jones, P.J., Haning, J. (Not for Publication.)

A081421 -- Thaddeus Keiffer v. Bechtel Corporation.

We reverse the order awarding attorney fees and remand to the trial court for reconsideration of Keiffer's motion for attorney fees. We award attorney fees on appeal to Bechtel with the amount of fees to be determined by the trial court upon remand. (Gov. Code, § 12965, subd. (b).) Jones, P.J. We concur: Haning, J., Stevens, J. (Not for Publication.)

MINUTES

COURT OF APPEAL
STATE OF CALIFORNIA
FIRST APPELLATE DISTRICT

Wednesday, January 27, 1999

DIVISION TWO

A077765 -- Shawn Scott Bailey v. San Leandro Property Management et al.

The order granting defendants' motion for new trial is reversed, and the original judgment reinstated. The order denying defendants' motion for judgment notwithstanding the verdict and the original judgment are affirmed. Bailey is awarded costs on appeal. (Cal. Rules of Court, rule 26(a).) Lambden, J. We concur: Haerle, Acting P.J., Ruvolo, J. (Not for Publication.)

A080740 -- The People v. George Edward Johnson.

The case is remanded for resentencing consistent with the views expressed herein. In all other respects, the judgment is affirmed. Ruvolo, J. We concur: Kline, P.J., Lambden, J. (Not for Publication.)

A082133 -- Elizabeth Colpoys v. Steven A. Schwab.

The judgment of the trial court is affirmed. Ruvolo, J. We concur: Kline, P.J., Lambden, J. (Not for Publication.)

A085345 -- City and County of San Francisco v. The Superior Court of San Francisco County, Angel Montalvo, R.P.I.

By The Court: The petition for writ of mandate/stay is denied. Haerle, Acting P.J.

Wednesday, January 27, 1999 (continued)

**A085610 -- Shawn Lee Perrot v. The Superior Court of Mendocino County,
The People of the State of California, R.P.I.**

By The Court: The petition for writ of mandate/prohibition/stay is denied.
Haerle, Acting P.J.

DIVISION FOUR

**A078624, A078903, A079124 -- Glenco Squaw Associates v. Randall J. Verrue
et al.**

The judgment and fee orders are affirmed with costs to respondents. Respondents shall recover their reasonable attorney's fees on appeal in an amount to be determined by the trial court. Hanlon, P.J. We concur: Poché, J., Reardon, J. (Not for Publication.)

A083953 -- In re Lauren W., a Person Coming Under the Juvenile Court Law.

The orders declaring the minor to be a person described by Welfare and Institutions Code section 602, and placing her on six months probation under the stated conditions, are affirmed. Sepulveda, J. We concur: Hanlon, P.J., Poché, J. (Not for Publication.)

DIVISION FIVE

A081173 -- The People v. Dimitri Lefteroff.

The judgment is affirmed. Haning, J. We concur: Jones, P.J., Stevens, J. (Not for Publication.)

Wednesday, January 27, 1999 (continued)

A081299 -- The People v. Andrew Kendrick.

The judgment of conviction is affirmed. Stevens, J. We concur: Jones, P.J., Haning, J. (Not for Publication.)

A081976 -- The People v. James Nobles.

The judgment is affirmed. Haning, J. We concur: Jones, P.J., Stevens, J. (Not for Publication.)

A082177 -- In re Joshua H., a Person Coming Under the Juvenile Court Law.

The order of the juvenile court is affirmed. Stevens, J. We concur: Jones, P.J., Haning, J. (Not for Publication.)

A082359 -- The People v. Corey Maurice Steptoe.

Accordingly, the judgment is affirmed. Haning, J. We concur: Jones, P.J., Stevens, J. (Not for Publication.)

A083047 -- The People v. Deangelo Dominico Davis.

The judgment of conviction is affirmed. Stevens, J. We concur: Jones, P.J., Haning, J. (Not for Publication.)

MINUTES

COURT OF APPEAL
STATE OF CALIFORNIA
FIRST APPELLATE DISTRICT

Thursday, January 28, 1999

DIVISION ONE

A082709 -- In re Robert M., a Person Coming Under the Juvenile Court Law.

The orders of the juvenile court are affirmed. Marchiano, J. We concur:
Strankman, P.J., Swager, J. (Not for Publication.)

COURT OF APPEAL
STATE OF CALIFORNIA
FIRST APPELLATE DISTRICT
DIVISION THREE

January 28, 1999

Court convened at 9:00 a.m. in its Courtroom at 303 Second Street, Marathon Plaza, South Tower, Fourth Floor, San Francisco, California.

Present: *Phelan, P.J., Corrigan, J., Parrilli, J., Walker, J., and Susan Graham, Deputy Clerk.

A078030 The People,
 v.
 Carolyn Marie Hasbun
 Justice Phelan not participating.
 Cause continued to February 23, 1999 calendar

A081399 Richard Fairchild,
 v.
 James Lawrence, et al.,
 Cause called and argued by John Lothrop counsel for appellant, and
 George Paul Eshoo, counsel for respondent. Cause ordered submitted.

A077719 The People,
A084331 v.
 Scott Douglas Roos,
 Cause called and argued by Richard Such, counsel for appellant, and
 Deputy Attorney General, Seth Schalit. Cause ordered submitted.

court adjourned

*Retired Presiding Justice of the Court of Appeal, First District assigned by the Chief Justice pursuant to article VI, section 6 of the California Constitution.